

USDOL/OALJ Reporter

[\*Lau v. Tennessee Valley Authority\*](#), 88-ERA-12 (Dep. Sec'y Dec. 13, 1990)

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U.S. DEPARTMENT OF LABOR

DEPUTY SECRETARY OF LABOR  
WASHINGTON, D.C.

DATE: December 13, 1990

CASE NOS. 88-ERA-12

88-ERA-20

88-ERA-13

IN THE MATTER OF

L. WANG LAU,  
COMPLAINANT,

v.

TENNESSEE VALLEY AUTHORITY,  
RESPONDENT,

ROBERT F. CHRISTIE,  
COMPLAINANT,

v.

TENNESSEE VALLEY AUTHORITY,  
RESPONDENT.

BEFORE: THE ACTING SECRETARY OF LABOR <sup>1</sup>

ORDER TO SUBMIT SETTLEMENT AGREEMENT

These consolidated cases, arising under the employee protection provision of the Energy Reorganization Act of 1974, as

amended (ERA), 42 U.S.C. § 5851 (1982), are before me pursuant to the (Recommended) Order of Dismissal issued by Administrative Law Judge (ALJ) Richard E. Huddleston on May 23, 1988.<sup>2</sup> The order states:

The above causes came on to be heard, and it appearing to the Administrative Law Judge that the parties have agreed that the matters in controversy in these proceedings have been compromised and settled, and it appearing that these proceedings should be dismissed with full prejudice, and that the parties, through the signature of their attorneys hereto, consent to such dismissal;  
It is hereby ORDERED, ADJUDGED, AND DECREED that these proceedings be, and they hereby are, dismissed with prejudice.

No copy of the settlement was filed and it is not a part of the record. This case cannot be dismissed unless the Secretary reviews and approves the settlement. *See Thompson v. United States Department of Labor*, 885 F.2d 551, 558 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89- ERA-10, Sec. Order, March 23, 1989.<sup>3</sup>

Accordingly, in order that the settlement can be reviewed to determine whether it is fair, adequate and reasonable, the parties are ordered to submit a copy of the settlement agreement to me for review, *see Macktal v. Brown & Root, Inc.*, Case No. 86- ERA-23, Sec. Order, November 14, 1989. If all the parties, including complainants individually, have not signed the settlement agreement itself, the parties shall submit a certification or stipulation, signed by all parties to the agreement, including Complainants individually, demonstrating their informed consent to the agreement. The settlement should be submitted within 30 days of receipt of this order.

SO ORDERED.

Acting Secretary of Labor Washington, D.C.

#### [ENDNOTES]

<sup>1</sup> There is presently a vacancy in the Office of Secretary of Labor. The Deputy Secretary is authorized to "perform the duties of the Secretary until a successor is appointed. . . ." 29 U.S.C. § 552 (1988).

<sup>2</sup> Under section 24.6 of 29 C.F.R., the regulation implementing the ERA, an ALJ is authorized to issue only a recommended decision, which must be reviewed by the Secretary before it becomes final. *See Cooper v. Bechtel Power Corp.*, Case No. 88-ERA-2, Sec. Order, September 29, 1989, slip op. at 1.

<sup>3</sup> The ERA, 42 U.S.C. § 5851(b)(2)(A), provides that "the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary *on the basis of a settlement entered into by the Secretary* . . . issue an order either providing the relief prescribed by subparagraph B or denying the complaint." (emphasis added).